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CONSTITUTIONAL PRINCIPLES OF COMPENSATION FOR DAMAGES IN THE EUROPEAN UNION

With the formation and development of a democratic society, which accordingly needs protection from the state, the issue of compensation for damage in the EU countries at the constitutional level becomes relevant.

Tort obligations are based on the norms of objective law, so the law establishes a list of conditions under which they arise. These conditions include [6]:

- damage caused to property or person ;
- unlawful act, which caused the damage;
- causal link between the unlawful act and the damage;
- guilt as a mental attitude of the perpetrator of harm to the violation committed by him and its consequences.

It is quite interesting to study the constitutional consolidation of the provisions on damages in the European Union.

According to the Basic Law (Constitution) of the Federal Republic of Germany, namely paragraph 3 of Article 14 «Alienation of property is allowed only for the common good. It may be carried out only by law or on the basis of a law regulating the nature and amount of compensation. Compensation shall be determined on the basis of fair consideration of the interests of the public and the persons concerned. Disputes over the amount of compensation shall be considered by courts of general jurisdiction». As it is seen in this normative legal act, the specification is only for compensation for damage to property [5].

The same situation is in the Constitution of France in Article 17 «Since property is an inviolable and sacred right, no one may be deprived of it except in the case of an indisputable public necessity established by law and subject to just and prior compensation». The Constitution ensures the inviolability of property and just prior compensation if the general necessity established by law requires property sacrifices [3].

German law, unlike French law, enshrines the system of the so-called mixed tort, which covers general and special torts. At the same time, it cannot be confidently asserted that there is a clear legislative definition of a general tort, but in some articles of the Civil Code (paras. 823, 826) provisions are formulated that the obligation to compensate for damage arises in case of infringement of any right and as a result of causing damage by any unlawful actions.

Article 30 of the Constitution of Lithuania «Compensation for material and non-pecuniary damage caused to a person shall be established by law», and accordingly, Article 23 does not forget that «seizure of property is possible only in accordance with the procedure established by

law for public needs and with fair compensation», this provision is similar to the provisions of France and Germany [2].

It is worth noting that the Austrian Constitution addresses the issue of compensation for damage only in relation to damage to health, Article 23 of the Constitution stipulates that the damage is compensated to the victim from law enforcement officials [1].

And finally, the Czech Republic, in paragraph 3 of Article 36 of the Constitution stipulates that «Everyone has the right to compensation for damages caused by an unlawful decision of a court, other state or public administration body or an incorrect official procedure» [4].

It is worth noting that the obligation to cause damage in all legal systems is considered as one of the institutions of civil law and is called non-contractual obligations or tort (unerlaubte Handlungen, delicts, torts). In this regard, it is worth noting that the constitutional consolidation of compensation for damage is somewhat indirect, since the specifics are given in the civil code of a particular country.

The law of all countries establishes the principle of full compensation for damage, which means that both positive damage and lost income are compensated. In some cases, the amount of compensation may exceed the amount of damage: when damage is caused to the person, life and health (Germany).

Thus, taking into account the above and the study of the constitutions of some European Union countries, it is worth noting that at the constitutional level in all countries compensation for damage is enshrined in its various manifestations, but the specificity of such a norm is enshrined in a special document or civil code of a particular country.

Список використаних джерел

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